

110TH CONGRESS
2D SESSION

H. R. 6931

To amend title XIX of the Social Security Act to provide an option of States to cover a children's program of all-inclusive coordinated care (ChiPACC) under the Medicaid Program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2008

Mr. MORAN of Virginia (for himself and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to provide an option of States to cover a children's program of all-inclusive coordinated care (ChiPACC) under the Medicaid Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "ChiPACC Act of
5 2008".

1 SEC. 2. OPTIONAL MEDICAID COVERAGE OF CHILDREN'S
 2 PROGRAM OF ALL-INCLUSIVE COORDINATED
 3 CARE (CHIPACC).

4 (a) IN GENERAL.—Section 1905(a) of the Social Se-
 5 curity Act (42 U.S.C. 1396d(a)) is amended—

6 (1) by striking “and” at the end of paragraph
 7 (27);

8 (2) by redesignating paragraph (28) as para-
 9 graph (29); and

10 (3) by inserting after paragraph (27) the fol-
 11 lowing new paragraph:

12 “(28) services furnished under a children’s pro-
 13 gram of all-inclusive coordinated care (ChiPACC)
 14 under section 1942; and”.

15 (b) CHILDREN’S PROGRAM OF ALL-INCLUSIVE CO-
 16 ORDINATED CARE (CHIPACC).—Title XIX of such Act is
 17 further amended by adding at the end the following new
 18 section:

19 “CHILDREN’S PROGRAM OF ALL-INCLUSIVE
 20 COORDINATED CARE (CHIPACC)

21 “SEC. 1942. (a) STATE OPTION.—

22 “(1) IN GENERAL.—A State may elect to pro-
 23 vide medical assistance under this section with re-
 24 spect to a children’s program of all-inclusive coordi-
 25 nated care to ChiPACC eligible individuals who are
 26 eligible for medical assistance under the State plan

1 and who are enrolled in the program. In the case of
2 an individual enrolled in such a program pursuant to
3 such an election—

4 “(A) the individual shall receive benefits
5 under the plan solely through such program;
6 and

7 “(B) the health care providers furnishing
8 services under such program shall receive pay-
9 ment in accordance with the terms of such pro-
10 gram for providing such services.

11 “(2) NUMERICAL AND GEOGRAPHICAL LIMITA-
12 TIONS PERMITTED.—A State may establish—

13 “(A) a numerical limit on the number of
14 individuals who may be enrolled in the State’s
15 ChiPACC; and

16 “(B) geographic limitations on the service
17 areas for a ChiPACC.

18 “(b) CHIPACC AND OTHER TERMS DEFINED.—In
19 this section:

20 “(1) CHILDREN’S PROGRAM OF ALL-INCLUSIVE
21 COORDINATED CARE; CHIPACC.—The terms ‘chil-
22 dren’s program of all-inclusive coordinated care’ and
23 ‘ChiPACC’ mean a program of coordinated care for
24 ChiPACC eligible children that is established by a

1 State under this section and meets the following re-
2 quirements:

3 “(A) OPERATION.—The program is admin-
4 istered by a single State agency. Such agency
5 may provide for the operation of the program
6 through arrangements between one or more
7 other entities, such as a ChiPACC coordinator,
8 and such agency.

9 “(B) COMPREHENSIVE BENEFITS.—

10 “(i) IN GENERAL.—The program pro-
11 vides comprehensive health care items and
12 services to ChiPACC eligible individuals in
13 accordance with this section and regula-
14 tions.

15 “(ii) SCOPE AND PLAN FOR SERV-
16 ICES.—Such items and services shall—

17 “(I) include items and services
18 described in subsection (c)(1)(A) to
19 the extent such items and services are
20 appropriate to the individual; and

21 “(II) be provided consistent with
22 a comprehensive care plan developed
23 by an interdisciplinary health profes-
24 sional team.

1 “(iii) QUALIFICATIONS OF PRO-
2 VIDERS.—Such items and services are pro-
3 vided through health care providers that—

4 “(I) meet such certification or
5 other quality requirements as may be
6 necessary to participate in the pro-
7 gram of medical assistance under this
8 title or in the program under title
9 XVIII; and

10 “(II) maintain records on
11 ChiPACC eligible individuals enrolled
12 in the program and to whom the pro-
13 vider furnishes services, reflecting
14 both the specific care and services fur-
15 nished by the provider and the rela-
16 tionship of those services to the com-
17 prehensive plan of care for that indi-
18 vidual and to the delivery of other
19 services to the individual through the
20 program.

21 “(2) CHIPACC ELIGIBLE INDIVIDUAL.—The
22 term ‘ChiPACC eligible individual’ means, with re-
23 spect to a ChiPACC, an individual—

24 “(A) who, at the time of enrollment in the
25 ChiPACC is a child (as defined under the State

1 plan for this purpose) and who is not older than
2 such age as the State may specify;

3 “(B) who suffers from a serious illness or
4 health condition that is life threatening;

5 “(C) for whom there is a reasonable likeli-
6 hood that the child’s life will be threatened by
7 such illness or condition;

8 “(D) whose health status is expected to de-
9 cline because of such illness or condition before
10 attaining full adulthood (as defined under the
11 State plan);

12 “(E) resides in the service area of the
13 ChiPACC; and

14 “(F) is eligible for medical assistance
15 under the State plan without regard to this sec-
16 tion (or, but for enrollment in a ChiPACC
17 would, based on the individual’s illness or
18 health condition or the projected cost of treat-
19 ment required for such illness or condition, be-
20 come so eligible).

21 The Secretary may waive the application of subpara-
22 graph (F) with respect to eligibility for medical as-
23 sistance under the State plan without regard to this
24 section in the case of individuals if the State dem-
25 onstrates to the satisfaction of the Secretary that

the sum of the additional expenditures under this title resulting from such waiver in a fiscal year will not exceed the aggregate savings in expenditures otherwise resulting from the implementation of this section in the fiscal year.

“(3) ChiPACC COORDINATOR.—The term ‘ChiPACC coordinator’ means, with respect to a ChiPACC, an entity (which may be the State administering agency or another entity under an arrangement with such an agency) that directs, supervises, and assures the coordination of comprehensive services to ChiPACC eligible individuals enrolled in the ChiPACC consistent with the following:

“(A) The entity must assure the direct and continuous involvement of an interdisciplinary health professional team in managing and coordinating the provision of care and services within the coordinator’s responsibility to each such enrolled individual.

“(B) The entity must include on its staff, or otherwise arrange for the provision of services, through contracts or otherwise, of each of the types of the health care professionals and other service providers required to provide the items and services required under subsection

(c)(1)(A), to the extent such items and services are necessary and appropriate to the care of an enrolled individual.

“(C) To the extent consistent with provision of the highest quality of care to enrolled individuals—

“(i) promote the utilization of volunteers in the provision of care and services under the ChiPACC, in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers; and

“(ii) ensure that records are maintained on the use of such volunteers and the cost savings and expansion of care and services achieved through the use of such volunteers.

“(4) INTERDISCIPLINARY HEALTH PROFESSIONAL TEAM.—The term ‘interdisciplinary health professional team’ means, with respect to a ChiPACC, a group of health professionals that—

“(A) includes at least—

“(i) one physician (as defined in section 1861(r)(1));

1 “(ii) one registered professional nurse;
2 and

3 “(iii) one social worker, pastoral coun-
4 selor, or other counselor;

5 “(B) develops a comprehensive plan of care
6 for ChiPACC eligible individuals enrolled with
7 the ChiPACC and furnishes, or supervises the
8 provision of, care and services described in sub-
9 section (c)(1) to an individual enrolled in the
10 ChiPACC; and

11 “(C) through direct action and communica-
12 tion with health care providers furnishing serv-
13 ices under the ChiPACC, on behalf of or under
14 the direction or supervision of a State admin-
15 istering agency or a ChiPACC coordinator, co-
16 ordinates the care and services furnished to
17 such enrollees in a manner that takes into ac-
18 count the best interests of each such enrollee
19 and the enrollee’s family, as well as consider-
20 ations of cost and efficient use of available re-
21 sources.

22 “(5) STATE ADMINISTERING AGENCY.—The
23 term ‘State administering agency’ means, with re-
24 spect to the operation of a ChiPACC in a State, the
25 agency of that State (which may be the single agen-

1 cy responsible for administration of the State plan
 2 under this title in the State) responsible for the im-
 3 plementation, either directly or through arrange-
 4 ments with one or more ChiPACC coordinators, of
 5 the ChiPACC under this section in the State.

6 “(6) REGULATIONS.—Except as otherwise pro-
 7 vided, the term ‘regulations’ refers to interim final
 8 or final regulations promulgated under subsection
 9 (g).

10 “(c) SCOPE OF BENEFITS; BENEFICIARY SAFE-
 11 GUARDS.—

12 “(1) IN GENERAL.—Under a ChiPACC of a
 13 State, the State administering agency shall assure
 14 that—

15 “(A) individuals enrolled in the ChiPACC
 16 are furnished, at a minimum—

17 “(i) all items and services that are
 18 necessary and appropriate to their care
 19 and that are covered under this title, and
 20 all additional items and services specified
 21 in regulations, but without any limitation
 22 or condition as to amount, duration, or
 23 scope;

1 “(ii) access to covered items and serv-
2 ices, as needed, 24 hours per day, every
3 day of the year;

4 “(iii) services that include comprehen-
5 sive, integrated palliative and curative
6 services, expressive therapy and counseling,
7 and counseling and anticipatory bereave-
8 ment services to immediate family mem-
9 bers of the ChiPACC eligible individual, as
10 part of the services to the eligible indi-
11 vidual;

12 “(B) provision of such services to such in-
13 dividuals through a comprehensive, interdisdisci-
14 plinary and multidisciplinary health and social
15 services delivery system which integrates, as ap-
16 propriate to the individual recipient of services,
17 acute and long-term care services, palliative,
18 respite and curative treatment, counseling and
19 support for family members who are caretakers
20 or otherwise relevant to appropriate care and
21 treatment of the individual, and such other
22 services as may be furnished pursuant to regu-
23 lations and the provisions of the applicable
24 State plan; and

“(C) the ChiPACC is operated, and the services to enrolled individuals are furnished, in a manner that is consistent with Standards of Care and Practice Guidelines developed by Children’s Hospice International for a Program of All-Inclusive Care for Children (as in effect as of the date of the enactment of this section or such later date as the Secretary may specify).

“(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—With respect to a ChiPACC, the State administering agency shall assure the following:

“(A) The provision of services under the ChiPACC meets Federal and State guidelines for quality assurance.

“(B) Necessary safeguards have been established to protect the health and welfare of individuals enrolled in the ChiPACC under this section.

“(C) There is financial accountability of funds expended under this title with respect to such services.

“(D) There is a written plan of quality assurance, and procedures implementing such plan, in accordance with regulations.

1 “(E) Written safeguards of the rights of
2 individuals enrolled in the ChiPACC, including
3 a patient bill of rights and procedures for griev-
4 ances and appeals, in accordance with regula-
5 tions and with other requirements of this title
6 and Federal and State law designed for the pro-
7 tection of patients.

8 “(F) There are in effect procedures for
9 data collection, record maintenance and reten-
10 tion, and the development of outcome measures,
11 and such other policies, systems, and proce-
12 dures as are sufficient to afford the Secretary
13 and the State administering agency access to
14 records and data relating to the ChiPACC, in-
15 cluding pertinent financial, medical, and per-
16 sonnel records.

17 “(G) The agency shall submit to the Sec-
18 retary such reports as the Secretary finds (in
19 consultation with State administering agencies)
20 necessary to monitor the operation, cost, and
21 effectiveness of ChiPACCs.

22 “(3) COST-SHARING WAIVER.—A State admin-
23 istering agency may, in the case of a ChiPACC eligi-
24 ble individual enrolled in the State’s ChiPACC,
25 waive deductibles, copayments, coinsurance, or other

1 cost-sharing that would otherwise apply under the
2 State plan under this title.

3 “(d) ELIGIBILITY DETERMINATIONS.—

4 “(1) IN GENERAL.—In determining whether an
5 individual is a ChiPACC eligible individual, the
6 State administering agency shall conduct an inde-
7 pendent evaluation and assessment, which shall in-
8 clude the following:

9 “(A) Where appropriate, consultation with
10 the individual’s family, guardian, or other re-
11 sponsible individual.

12 “(B) Consultation with appropriate treat-
13 ing and consulting health and support profes-
14 sionals caring for the individual.

15 “(C) An examination of the individual’s
16 relevant history, medical records, and care and
17 support needs, guided by best practices and re-
18 search on effective strategies that result in im-
19 proved health and quality of life outcomes.

20 “(2) CERTIFICATION.—Upon completion of the
21 evaluation and assessment described in paragraph
22 (1), an individual meeting the criteria of a ChiPACC
23 eligible individual shall be certified as such, pursuant
24 to procedures specified in regulations and the appli-
25 cable State plan.

1 “(3) CONTINUATION OF ELIGIBILITY.—An indi-
2 vidual who is a ChiPACC eligible individual may be
3 deemed to continue to be such an individual notwith-
4 standing a determination that the individual no
5 longer meets the requirement of subsection (b)(2)(B)
6 if, in accordance with regulations, it is reasonably
7 foreseeable that, if the individual is not furnished
8 services under this section, the severity or impact of
9 the individual’s illness or condition would increase to
10 a degree that the individual would again meet such
11 requirement before the individual attains adulthood
12 or within the succeeding 12-month period.

13 “(4) ANNUAL REEVALUATIONS.—Subject to
14 such limitations as the Secretary may by regulation
15 prescribe, the eligibility determination made under
16 this subsection shall be reevaluated annually, except
17 that such an annual evaluation may be waived, in
18 accordance with regulations, in a case where the ad-
19 ministering State agency determines that there is no
20 reasonable expectation of improvement or significant
21 change in the individual’s illness or condition during
22 a period to which the reevaluation requirement
23 would otherwise be applicable.

24 “(5) ENROLLMENT AND DISENROLLMENT.—

1 “(A) VOLUNTARY DISENROLLMENT AT ANY
2 TIME.—The enrollment and disenrollment of
3 ChiPACC eligible individuals in a ChiPACC
4 shall be pursuant to procedures specified in reg-
5 ulations and the State plan, but shall permit an
6 enrollee, or an enrollee’s guardian or other legal
7 representative, acting on behalf of an enrollee,
8 to voluntarily disenroll for any reason at any
9 time.

10 “(B) LIMITATIONS ON DISENROLLMENT.—

11 “(i) IN GENERAL.—Regulations, and
12 the applicable State plan, shall provide
13 that a ChiPACC may not involuntarily
14 disenroll a ChiPACC eligible individual en-
15 rolled in the ChiPACC except—

16 “(I) for disruptive or threatening
17 behavior by the enrollee, or by a fam-
18 ily member with whom a health care
19 provider providing services under the
20 ChiPACC necessarily has contact in
21 the provision of services, as defined in
22 provisions of regulations (developed in
23 close consultation with State admin-
24 istering agencies); and

1 “(II) if there is a change in the
2 individual’s medical condition, resi-
3 dency or geographic location, or finan-
4 cial situation such that the individual
5 no longer is a ChiPACC eligible indi-
6 vidual and paragraph (3) does not
7 apply to warrant continuation of en-
8 rollment.

9 “(ii) NO DISENROLLMENT FOR NON-
10 COMPLIANT BEHAVIOR.—Except as allowed
11 under regulations, a ChiPACC may not
12 disenroll a ChiPACC eligible individual on
13 the ground that the individual has engaged
14 in noncompliant behavior if such behavior
15 is related to a mental or physical condition
16 of the individual. For purposes of the pre-
17 ceding sentence, the term ‘noncompliant
18 behavior’ includes repeated noncompliance
19 with medical advice and repeated failure to
20 appear for appointments.

21 “(iii) TIMELY REVIEW OF PROPOSED
22 NONVOLUNTARY DISENROLLMENT.—A pro-
23 posed involuntary disenrollment under this
24 subparagraph shall be subject to timely re-
25 view and final determination by the Sec-

retary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective, pursuant to procedures prescribed in regulations.

“(C) APPEALS.—If an individual is determined not to be a ChiPACC eligible individual upon application, any time after such services begin, or is disenrolled from a ChiPACC for reasons described in subparagraph (B)(i)(I), the State plan under this title shall allow for an appeal of such determination. During the course of the appeals process, an individual previously enrolled in a ChiPACC shall continue to be so enrolled and to receive benefits through the ChiPACC.

“(6) CONSTRUCTION.—The fact that a ChiPACC eligible individual is enrolled under a ChiPACC shall not be construed as adversely affecting the eligibility of the individual’s parents or caretaker relatives for medical assistance under this title.

“(e) PAYMENTS TO HEALTH CARE PROVIDERS UNDER CHIPACC.—

“(1) IN GENERAL.—Payments to health care providers furnishing items and services under a

ChiPACC shall be paid on a capitated or fee-for-service basis, according to regulations and as specified in the applicable State plan consistent with this subsection.

“(2) USE OF INTEGRATED, BUDGET-NEUTRAL FINANCING.—Payments under this subsection shall be made—

“(A) on a basis that permits provision for integrated financing methodologies that allow providers to pool payments received from public and private programs and individuals; and

“(B) in amounts that are designed, according to regulations, to ensure that aggregate payments under this section for individuals enrolled in a ChiPACC, whether made on a capitated basis or fee-for-service basis, do not exceed on average the aggregate payments that would have been paid under the State plan for such individuals if they were not so enrolled, taking into account the comparative case-mix of ChiPACC enrollees and such other factors as the Secretary determines to be appropriate.

“(f) TERMINATION PROCEDURES.—

“(1) IN GENERAL.—Under regulations—

1 “(A) the Secretary may require a State ad-
2 ministering agency to terminate the participa-
3 tion of a ChiPACC coordinator for cause; and

4 “(B) a State administering agency may
5 terminate operation of a ChiPACC after appro-
6 priate notice to the Secretary and enrollees.

7 “(2) CAUSES FOR COORDINATOR TERMI-
8 NATION.—In accordance with regulations estab-
9 lishing procedures for termination of participation of
10 ChiPACC coordinators, the Secretary may require a
11 State administering agency to terminate participa-
12 tion of a ChiPACC coordinator for, among other
13 reasons, the fact that—

14 “(A) the Secretary determines that the
15 ChiPACC coordinator has failed to comply sub-
16 stantially with requirements for a ChiPACC co-
17 ordinator under this section; and

18 “(B) the State administering agency has
19 failed to develop and successfully initiate, with-
20 in 30 days of the date of the receipt of written
21 notice of such a determination for the ChiPACC
22 coordinator, a plan to correct the coordinator's
23 deficiencies, or has failed to continue implemen-
24 tation of such a plan of correction.

25 “(g) REGULATIONS.—

1 “(1) IN GENERAL.—The Secretary shall issue
2 interim final or final regulations to carry out this
3 section.

4 “(2) USE OF EXISTING STANDARDS.—

5 “(A) IN GENERAL.—In issuing such regu-
6 lations, the Secretary shall, to the extent appro-
7 priate and consistent with the provisions of this
8 section, incorporate the standards and require-
9 ments applied to Programs of All-Inclusive Care
10 for Children demonstration waiver programs
11 that have been implemented before (or as of)
12 the date of the enactment of this section, in-
13 cluding standards of care and practice guide-
14 lines applied under such programs.

15 “(B) FLEXIBILITY.—In order to provide
16 for reasonable flexibility in adapting the service
17 delivery model described in subparagraph (A) to
18 the needs of particular organizations (such as
19 those in rural areas or those that may deter-
20 mine it appropriate to use nonstaff physicians
21 according to State licensing law requirements)
22 under this section, the Secretary (in close con-
23 sultation with State administering agencies)
24 may modify or waive provisions described in
25 subparagraph (A) so long as any such modifica-

tion or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

“(i) The requirement of delivery of comprehensive, integrated palliative, respite and curative services, therapy, counseling and other medical and psycho-social services for ChiPACC eligible individual, to the extent such services would benefit the individual.

“(ii) The requirement of delivery of counseling and bereavement services to immediate family members of the ChiPACC enrollees as part of the services to the enrollee.

“(iii) The requirement of an interdisciplinary health professional team approach to care management and service delivery to ChiPACC eligible individuals.

“(iv) The provision of integrated financing methodologies that allow for the pooling of payments received from public and private programs and individuals.

1 “(v) The limitation on average aggregate
2 payment under subsection (e)(2).

3 “(C) CONTINUATION OF MODIFICATIONS
4 OR WAIVERS OPERATIONAL REQUIREMENTS.—If
5 a State agency administering a program of all-
6 inclusive coordinated care for seriously ill chil-
7 dren approved pursuant to waiver authority
8 under section 1115 or 1915(c) has contractual
9 or other operating arrangements relating to
10 such program which are not otherwise recog-
11 nized in regulation and which were in effect as
12 of the date of the enactment of this section, the
13 Secretary shall permit the agency to continue
14 such arrangements so long as such arrange-
15 ments are found by the Secretary to be reason-
16 ably consistent with the objectives of a
17 ChiPACC.

18 “(3) CONSTRUCTION.—Nothing in this sub-
19 section shall be construed as preventing the Sec-
20 retary from including in regulations provisions to en-
21 sure the health and safety of individuals enrolled in
22 a ChiPACC under this section that are in addition
23 to those otherwise provided under this section.

24 “(h) WAIVERS OF REQUIREMENTS.—With respect to
25 carrying out a ChiPACC under this section, the following

1 requirements of this title (and regulations relating to such
2 requirements) shall not apply:

3 “(1) Section 1902(a)(1), relating to any re-
4 quirement that ChiPACCs or ChiPACC services be
5 provided in all areas of a State.

6 “(2) Section 1902(a)(10), insofar as such sec-
7 tion relates to comparability of services among dif-
8 ferent population groups.

9 “(3) Sections 1902(a)(23) and 1915(b)(4), re-
10 lating to freedom of choice of providers under a
11 ChiPACC.

12 “(4) Section 1903(m)(2)(A), insofar as it re-
13 stricts a ChiPACC provider from receiving prepaid
14 capitation payments.

15 “(5) Such other provisions of this title that the
16 Secretary determines are inapplicable to carrying out
17 a ChiPACC under this section.

18 “(i) CONTINUED DEMONSTRATION PROJECT AU-
19 THORITY.—Nothing in this section shall be construed as
20 preventing a State from developing, or the Secretary from
21 approving, a project similar to or related to ChiPACCs
22 as described in this section, under existing authorities, in-
23 cluding demonstration project and waiver authorities
24 under this title or other provisions of this Act.”.

(c) OTHER CONFORMING AMENDMENTS.—Section 1905(r)(5) of such Act (42 U.S.C. 1396d(r)(5)) is amended by inserting before the period at the end the following: “, other than items and services to the extent such items and services are included under subsection (a) because of the application of paragraph (28)”.

(d) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out the amendments made by this section in a timely manner, so as to assure that it will be feasible for State agencies and entities to establish and operate ChiPACCs for periods beginning not later than 1 year after the date of the enactment of this Act.

(e) FUNDS FOR TECHNICAL ASSISTANCE.—The Secretary is authorized to expend funds appropriated to carry out title XIX of the Social Security Act to make grants to, or enter into contracts with, private entities or organizations that are qualified to provide technical or other assistance in developing and establishing ChiPACCs within the States, except that—

(1) such funds may be expended solely for the purposes of implementing this section; and

(2) a private entity or organization in receipt of such funds must have demonstrated expertise and a



1 minimum of 5 years of experience in working with
2 or assisting in the establishment of programs for
3 comprehensive care of children meeting the descrip-
4 tion of ChiPACC eligible individuals under section
5 1942(b) of the Social Security Act, as added by sub-
6 section (b).

○